



**Rule(s) Review Checklist Addendum**  
(This form must be filled out electronically.)

**This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended subsequent to that review.**

All responses should be in **bold** format.

Document(s) Reviewed (include title):

**WAC 458-30-700: Designated forest land - Removal - Change in status - Compensating tax**

Date last reviewed: **Not applicable**

Reviewer: **Kim M. Qually**

Date current review completed: **6/21/05**

Briefly explain the subject matter of the document(s):

**The goal and purpose of WAC 458-30-700 is to explain what occurs when the use or ownership of land designated as forest land changes. This rule also applies when the owner of such land no longer wants to keep the designated land as forest land for whatever reason he or she may have. The rule describes the events that trigger removal and/or a change in status. It also sets out the formula used to calculate the compensating tax that is imposed when land loses its forest land designation and the exceptions to the imposition of this tax.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**Not applicable**

**2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs:**

YES	NO	
<b>X</b>		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	<b>X</b>	Are there any interpretive or policy statements not identified in the previous



		review of this rule that should be incorporated?
	<b>X</b>	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed?
<b>X</b>		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
	<b>n/a</b>	Are there any administrative decisions subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
<b>n/a</b>		Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above?

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**RCW 84.33.140, the underlying statute, was amended during 2003, by c 170, s 5 and 2005, c 303, s 13 (SSB 5396) and the rule was needs to be updated to reflect these changes. Additionally, the 9<sup>th</sup> Circuit Court of Appeals created a new exception from compensating taxes as applied to transaction involving Indian tribes. There is also one BTA case that also should be incorporated into the rule. The rule needs to be updated to reflect current law and other practices.**

### 3. Additional information:

**The rule was recently written so it is in the format and style now preferred by DOR. It is as clear and concise as written.**

### 4. Listing of documents reviewed:

Statute(s) Implemented:

**RCW 84.33.140 - Forest land valuation -- Notation of forest land designation upon assessment and tax rolls -- Notice of continuance -- Removal of designation -- Compensating tax.; and  
RCW 84.33.145 - Compensating tax**

Interpretive and/or policy statements: **None**

Court Decisions:

**Quinault Indian Nation v. Grays Harbor County, 310 F.3d 645 [9<sup>th</sup> Circuit] (2002) - Quinault Indian Nation brought action against county, challenging county's imposition of compensating tax upon transfer of forest land in trust to United States. 9<sup>th</sup> Circuit Court of Appeals, held that compensating tax was impermissible taxation of land. New exemption from compensating tax created under decision.**



Board of Tax Appeals Decisions (BTAs):

**Douglas Fir Christmas Tree LLC [Stohr] v. Mason County Assessor**, BTA Docket Nos. 03-002 to 03-007, 03-037 to 03-038 (2003) - removal DFL - Appellant contended that compensating tax should not be imposed because the law provided an exception for sales or transfers of inherited forest lands. Primary issue was whether eligibility to claiming the exception can be extended to the LLC or remains with the individual(s) and/or entity who/that originally inherited the property. A secondary issue is how the timing of the transactions affect the eligibility for exception.

**Davis v. Stevens County Assessor**, BTA Docket No. 61232 (2004) - removal of designated forest land and compensating tax calculations. Change in the law governing a residence located on forestland designated land; number of trees per acre;

Appeals Division Decisions (WTDs): **Not applicable**

Attorney General Opinions (AGOs): **None**

Other Documents: **None**

#### 5. Review Recommendation:

- |                     |   |
|---------------------|---|
| <u>  <b>X</b>  </u> | <b>Amend</b>  |
| <u>      </u>       | <b>Repeal/Cancel</b>  |
| <u>      </u>       | <b>Leave as is</b>  |
| <u>      </u>       | <b>Begin the rule-making process for possible revision.</b> |

**Explanation of recommendation:** Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents; or
- Address issues not otherwise addressed in other documents.

**WAC 458-30-700 should be amended to incorporate the decision of the 9<sup>th</sup> Circuit Court of Appeals regarding sale or transfers by Indian tribes and recent BTA decisions, to the extent they add new information and provide clarity.**



**6. Manager action:** Date: 7/6/05

AL Reviewed and accepted recommendation

Amendment priority (to be completed by manager):

     1  
  X   2  
     3  
     4